UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450 .
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/524,826	03/14/2000	Paul C. Tang	310265.90261	7757

26735 7590 12/19/2006

QUARLES & BRADY LLP
FIRSTAR PLAZA, ONE SOUTH PINCKNEY STREET
P.O BOX 2113 SUITE 600
MADISON, WI 53701-2113

EXAMINER	
GLASS, RUSSELL S	
ART UNIT	**PAPER NUMBER**
3626	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/19/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/524,826	TANG ET AL.	
	Examiner	Art Unit	
	Russell S. Glass	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 September 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5 and 14-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5 and 14-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 16 has been amended as suggested. However, the amendment is not noted in the recent version of the claims dated September 26, 2006.

Claim Rejections - 35 USC § 112

2. **Claims 14-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

In response to applicant's argument that the claims no longer contain the conditional limitation "if", it is noted that "when" is not recited in the rejected claim(s).

The rejection made because of applicants use of the word code is withdrawn due to applicants recent amendment.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. **Claims 1, 3-5, 14, 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grey, (U.S. 6,149,585), in view of Preston Gralla, HOW THE**

INTERNET WORKS 145-57, 166-69 (Greg Weigand ed., Que Millennium) (August 1999) ("Gralla"), and further in view of Coli et al., (U.S. 6,018,713).

4. As per claims 1 and 19, Grey discloses a computerized patient records system operated for a healthcare institution which maintains written clinical guidelines, a method of operating active guidelines comprising the steps of:

a) on an active guidelines server, maintaining the clinical guidelines and also maintaining, associated with the clinical guidelines, active guideline tags containing information useable by the computerized patient records system to generate orders, (Grey, col. 2, lines 41, 42, 65; col. 5, lines 17-26);

b) at the station of a user, operating an active guidelines viewer in communication with the guidelines server, the active guidelines viewer including a web browser, (Grey, Figs, 19-22A; col.2, lines 41, 42, 65; col. 3, lines 8-11; col. 4, line 41-col. 5, line 61; col. 6, lines 50-68; col. 8, lines 23-26, lines 55-65; col. 9, line 40-col.10, lines 53-61) (disclosing a viewer and server for medical guidelines).

However, Grey fails to disclose the following well-known methods steps disclosed by Gralla:

an active guidelines interpreter (Gralla, p.145-54) (disclosing a web browser performing the function of an active guidelines interpreter by interpreting HTML tags/markups),

and a URL router, (Gralla, p.155-57) (disclosing an HTTP server performing the function of a URL router because it is interposed between the web browser of the user and the rest of the system, and allows the host to communicate with the client

i) the active guidelines interpreter receiving the active guidelines tags and converting the active guidelines tags into hyperlinks and passing the hyperlinks to the web browser, (Gralla, p. 145-157) (disclosing the well known method of using an http server to send a document, including the document URL, containing tags and/or other markup language to a web browser).

ii) the web browser receiving and displaying the hyperlink from the active guidelines interpreter for the user representing the active guideline, (Gralla, p.145-157) (disclosing the well known method of using a web browser to recieve a document, including the document URL, containing tags identifying hyperlinks and/or other markup language, for display on the web browser); and

c) when the user accepts a single clinical guideline by invoking a hyperlink, the URL router receiving the active guideline tag associated with the invoked hyperlink and creating an action item from the tag to be sent to the computerized system for implementation, the action item being processed by the computerized system to create an order, (Gralla, p. 145-157) (disclosing an http server acting as a URL router to receive the URL from the system web browser when a hyperlink is activated, retrieving the document and associated format tags, and having the system web browser process the HTML file).

Gralla fails to disclose processing computerized patient records at a health care institution containing clinical guidelines. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the medical subject matter of Grey into the method disclosed by Gralla. The motivation would have been to assist a physician in accurately and efficiently diagnosing a patient, (Grey, col. 1, line 24-26, 50-54).

Gralla and Grey fail to disclose creating an order. However, using such a system to generate an order is well known in the art as evidenced by Coli et al., (Coli, col. 19, lines 54-63; col.12, lines 24-28) (disclosing a doctor activating a hyperlink associated with a desired test for a test ordering function).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the medical subject matter of Grey and Coli into the well-known method disclosed by Gralla. The motivation would have been to provide a clinical test ordering and results reporting system wherein other layers of data can be attached to the test result output, (Coli, col. 3, lines 6-10).

5. As per claim 3 and 16, Grey discloses a method wherein the order in step (c) is for a procedure to be performed, (Grey, col. 6, lines 50-60).

6. As per claim 4 and 5, Grey discloses a method wherein the station of the user communicates with the active guidelines server over the internet, (Grey, Fig. 1; col. 2, lines 37-53; col. 3, lines 24-41).

7. As per claims 14 and 20, Grey discloses a multiple server computer system to operate an electronic medical records software system and order entry in a healthcare institution, a method comprising the steps of:

a) providing an active guidelines server, the active guidelines server maintaining a set of clinical guidelines and a set of active guidelines tags, each of the active guidelines tags being associated with at least one of the clinical guidelines and including information useable by the records system to generate orders, (Grey, col. 2, lines 41, 42, 65; col. 5, lines 17-26),

b) providing a workstation at the location of a clinician, the workstation operating an active guidelines viewer, the active guidelines viewer including a web browser, (Grey, Figs. 19-22A; col.2, lines 41, 42, 65; col. 3, lines 8-11; col. 4, line 41-col. 5, line 61; col. 6, lines 50-68; col. 8, lines 23-26, lines 55-65; col. 9, line 40-col.10, lines 53-61) (disclosing a viewer and server for medical guidelines).

However, Grey fails to disclose the following well-known method steps:

an interpreter and a URL router, the interpreter convertinq the document tags into a hvperlink with a uniform resource locator (URL), the web browser displaying for the user the hyperlink associated with the document, (Gralla, p. 145-157) (disclosing the well known method of using an http server to send a document, including the document URL, containing tags and/or other markup language to a web browser, and also using a web browser to recieve a document, including the document URL, containing tags

identifying hyperlinks and/or other markup language, for display on the web browser); and

c) when the user chooses a hyperlink presented by the web browser, the URL router receiving the active guideline tagassociated with the chosen hyperlink and, if the chosen hyperlink is for an active guidelines order, sending a communication to the electronic medical records software system, (Gralla, p. 145-157) (disclosing an http server acting as a URL router to receive the URL from the system web browser when a hyperlink is activated, retrieving the document and associated format tags, and having the system web browser process the HTML file).

Gralla fails to disclose processing computerized patient records at a health care institution containing clinical guidelines. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the medical subject matter and clinical context of Grey into the method disclosed by Gralla, (i.e. a clinician in lieu of a user, a clinical guideline in lieu of a document, etc). The motivation would have been to assist a physician in accurately and efficiently diagnosing a patient, (Grey, col. 1, line 24-26, 50-54).

Gralla and Grey fail to disclose creating an order. However, using such a system to generate an order is well known in the art as evidenced by Coli et al., (Coli, col. 19, lines 54-63; col.12, lines 24-28) (disclosing a doctor activating a hyperlink associated with a desired test for a test ordering function).

8. As per claim 17, claim 17 contains the same or similar limitations as claim 14 except the following well-known methods steps further disclosed by Coli:

a) including information useable by an electronic medical records system to generate orders, (Coli, Fig. 7; col. 3, line43-col. 4, line 2; col. 4, line 62-col. 5, line 57; col. 11, line 55-col. 12, line 38; col. 12, line 62-col. 13, line 29; col. 16, lines 56-67) ,

b) storing the codes for orders and providing input to and monitoring output of the web browser, (Coli, Fig. 7; col. 3, line43-col. 4, line 2; col. 4, line 62-col. 5, line 57; col. 11, line 55-col. 12, line 38; col. 12, line 62-col. 13, line 29; col. 16, lines 56-67), and

c) sending a communication to the electronic medical records software system containing the stored order to cause an order to be entered, (Coli, Fig. 7; col. 3, line43-col. 4, line 2; col. 4, line 62-col. 5, line 57; col. 11, line 55-col. 12, line 38; col. 12, line 62-col. 13, line 29; col. 16, lines 56-67).

9. As par Claim 18, Coli further discloses a method wherein the sending of the communication to the electronic medical records software system includes sending the communication to an accumulator which accumulates communications for delivery to the electronic medical records software system, (Coli et al., Figs. 4-10; col. 3, line43-col. 4, line 2; col. 4, line 62-col. 5, line 57; col. 11, line 55-col. 12, line 38; col. 12, line 62-col. 13, line 29; col. 16, lines 56-67) (disclosing a Diagnostic Information System that accumulates communications for delivery, such as orders, see in particular Fig. 9 showing accumulated orders after delivery to the system).

10. **Claims 2, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grey, (U.S. 6,149,585), in view of Preston Gralla, HOW THE INTERNET WORKS 145-57, 166-69 (Greg Weigand ed., Que Millennium) (August 1999) ("Gralla"), and further in view of Coli et al., (U.S. 6,018,713), and further in view of DeLaHeurga, (U.S. 6,408,330).**

11. As per claim 2 and 15, The collective system of Grey, Gralla, and Coli fails to disclose the method of claim 1 wherein the order in step (c) is issuing a prescription. However, issuing a prescription using a method similar to that disclosed by the collective system above is well-known in the art as evidenced by DeLaHeurga, (DeLaHeurga, Figs. 13A-C, 14A and B, 30; col. 16, lines 27-44; col. 36, line 23-col. 37, line 42; coll 52, line 49-col. 53, line 19; col. 54, line 65-col. 55, line 30).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the prescription ordering system in DeLaheurga in to the collective system of Grey, Gralla, and Coli. The motivation would have been to reduce the amount of manual data entry and simplify information management, (DeLaHeurga, col. 9, lines 55-56).

Response to Arguments

Applicant's arguments filed 9/26/2006 have been fully considered but they are not persuasive. Applicant argues that none of the cited references teaches or remotely

suggests tags that contain information useable by a patient records system to generate orders. However, it is submitted that Gray in fact discloses this claim limitation because ordering a diagnostic test is generating an order, (Gray, col. 3, lines 4-13). Furthermore, the system and method taught by Grey does not require information to be entered by a user because it is capable of operating from a database of information, (Gray, col. 3, lines 4-13).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell S. Glass whose telephone number is 571-272-3132. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RSG
12/2/2006

C. LUKE GILLIGAN
Primary PATENT EXAMINER